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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/559,469	04/26/2000	Shinichi Kudo	Q59040	1492

7590

09/10/2003

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EXAMINER

NGUYEN, BINH AN DUC

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 09/10/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/559,469

Applicant(s)

KUDO, SHINICHI

Examiner

Binh-An D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. In view of the appeal brief filed on June 4, 2003, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Currently, claims 1-11 are pending in this application. Acknowledgment has been made.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to

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reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 1, 4, and 7-9, the limitation of "displaying an image of the player character corresponding to anyone of said plurality of operational modes together with images of said non-player characters with both the images of the player and the non-player characters **kept unchanged**, simultaneously with any one of said background images" has not been originally disclosed in the specification.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rieder (5,769,718) in view of Stephens et al. (6,155,923).

Rieder teaches a video game device and method comprising an image of a player character, images of non-player characters (antagonist characters), and background images; predetermining a plurality of operational modes which are assigned to player character (fighting mode, moving mode, etc.), and preparing an image corresponding to each operational mode; displaying an image of the player character corresponding to any one of plurality of operational modes and images of non-player characters, simultaneously with any one of the background images (Fig. 6); the image of the player character is an image displaying the player character in a state where it is

carrying a weapon; a fighting mode representing a state wherein the player character is able to fight using the weapon; and a moving mode representing a state wherein the character moves while carrying the weapon (Fig. 5). See Figures 4-8 and columns 2:11-5 and 5-8.

Rieder does not explicitly teach the limitations of displaying an image of the player character corresponding to any one of said plurality of operational modes together with images of non-player characters with both the images of the player and the non-player characters kept unchanged; and background images that display scenes adjacent to each other in location (claims 1, 4, and 7-9); restricting the switching of the background images from the start until completion of an operational mode (claims 1, 4, 7, 8, and 9); information relating to background images is determined on the basis of the video RAM capacity of the video device (claims 2 and 5). Stephens et al., however, teaches a video game system and methods for enhanced processing and display of graphical character elements comprising displaying an image of the player character corresponding to any one of said plurality of operational modes together with images of non-player characters with both the images of the player and the non-player characters kept unchanged (no changing or replacing types of player characters and non-player characters); background images that display scenes adjacent to each other in location (Figure 1); restricting the switching of the background images from the start until completion of an operational mode (5:36-48); information relating to background images is determined on the basis of the video RAM capacity of the video device (5:2-10:43). See also, Figures 1-6 and columns 1-4.

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Furthermore, regarding the limitation of "said character is unable to fight using said weapon in the moving mode" (claims 10 and 11), this limitation is notoriously well known by the video game in the events such as no fighting command being issued from the controller by the game player or the game character ran out of munitions, etc.

Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Rieder's with a video game system and methods for enhanced processing and display of graphical character elements, as taught by Stephens et al., to come up with a more affordable and faster video game processing device thus attract more game players and increase profit in sales.

7. Applicant's arguments filed in the Appellant's Brief, Paper No. 19 with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

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T. Walberg
Teresa Walberg
Supervisory Patent Examiner
Group 3700